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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,534	02/21/2002	Vlad Alexandru Stirbu	944-001.068	5946

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EXAMINER
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HERRING, VIRGIL A

ART UNIT	PAPER NUMBER
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2132

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/082,534	STIRBU, VLAD ALEXANDRU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Virgil Herring	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                           |

### **DETAILED ACTION**

This action is responsive to the amendment filed 3 December 2006. Claims 1-9 were previously allowed. Claims 10-17 were previously rejected. Claims 1-17 are currently pending.

### ***Response to Arguments***

Applicant's arguments filed 3 December 2006 have been fully considered but they are not persuasive.

Applicant first argued that there is an equivalent structure description to the means of claim 10 in the form of the application program interface. Applicant also argued that the application program interface is understood by those skilled in the art to be software loaded for execution in a processor, or alternately, an application specific circuit. The examiner respectfully disagrees, noting that the application program interface itself does not have a corresponding structure description in the specification in either of the forms described.

Applicant then argued that the server of claims 11 and 13-17 is understood by those skilled in the art as hardware operating according to software. The examiner respectfully disagrees, noting that there is no description in the specification to support this statement. The term "server" can refer to a hardware device in some situations, but can also refer to software alone in other instances.

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Applicant then argued that one skilled in the art would understand that the user equipment terminal of claim 12 is described in the specification to be various devices such as a cellular phone, laptop with mobile terminal, or a mobile router. Applicant then argued that the application program interfaces of claim 12 must be software hosted for execution by hardware, because software alone cannot respond to an input. The examiner respectfully disagrees, noting that nowhere in the specification is there an indication that the API must be software executed by hardware.

In light of a lack of evidence to support the conclusion that servers and APIs are understood to be software executed by hardware, the prior rejections under 35 USC §101 & 112 are upheld.

***Claim Rejections - 35 USC § 112***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Specifically, the means in the claim lack an equivalent structure in the specification.

***Claim Rejections - 35 USC § 101***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 10-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 10 cites "means" with no equivalent structure in the specification. Thus, the claim scope includes software-only embodiments, and the claim is therefore non-statutory.

Claims 11 and 13-17 are described as a multimedia network comprising a function and a server. From the specification, it is not clear whether this server is hardware or software. Clarification of this point is requested.

Claim 12 is described as a user equipment terminal comprising two application program interfaces. Application program interfaces are known in the art to be software, thus the claim contains no hardware elements.

***Allowable Subject Matter***

Claims 1-9 are allowed. The following is an examiner's statement of reasons for allowance:

With regards to the combination of 3GPP TS 33.203 and 22.228 as described in the prior office action, these references only disclose the communication of capabilities, not the transmission of a list of subscribed multimedia network services.

With regards to application # 09/731,758, a 3GPP based system, including such things as the home subscriber service and serving call session control function is disclosed. However, Faccin et al do not include inserting a list of services to which the user equipment terminal is subscribed into any messages.

With regards to Patent # 6,871,070, a 3GPP system, including the multimedia network, home subscriber service, user equipment terminal, etc. is disclosed. However, Ejzak does not disclose inserting a list of multimedia network services to which the user equipment terminal is subscribed into any of the messages. Instead, he focuses on the mechanics of providing communications while traveling between different types of home and serving systems.

With regards to Patent # 9,954,654, a 3GPP system, including the multimedia network, home subscriber service, user equipment terminal, etc. is disclosed. However, Ejzak's focus here is a communication system in which the features and services can be used by both packet-switched and circuit-switched user equipment terminals. Although Ejzak does discuss the serving call session control function providing features

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and services to the user equipment terminal, there is not a list of subscribed services being communicated.

The prior art made of record and not specifically discussed above is considered pertinent to applicant's disclosure in that it deals with similar subject matter. The prior art discussed above is the most closely related to the present invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virgil Herring whose telephone number is (571) 272-8189. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Virgil Herring *VH*  
Examiner  
Art Unit 2132

VH

*Gilberto Barron Jr.*  
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